

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING: Friday, May 25, 2001, 1:30 p.m., Council Chambers, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE:

Members: George Hancock, Linda Wibbels, Tom Wanser, Gerry Krieser, and Gene Carroll

Others: Rodger Harris (Building & Safety), Rick Peo (City Law Dept.), Jason Reynolds and Missy Minner (Planning Dept.), applicants and other interested parties.

STATED PURPOSE

OF THE MEETING: Regular Meeting of the City Board of Zoning Appeals

Chair Hancock called the meeting to order and requested a motion for nomination of vice-chair. Krieser moved nomination of Wibbels, seconded by Carroll. Motion carried 5-0.

Hancock called for a motion approving the minutes of the April 27, 2001 minutes. Motion for approval made by Wanser, seconded by Carroll. Motion for approval carried 5-0.

City Board of Zoning Appeals No. 2308

Requested by Joy Bartling for a variance of the maximum height of a structure within the airport turning zones on property located at 600 Fletcher Avenue.

PUBLIC HEARING

May 25, 2001

Members present: Wibbels, Krieser, Hancock, Wanser, and Carroll

Jill Bazzell, real estate consultant for Qwest Wireless appeared. Qwest is proposing a 123' monopole tower to cover the area from I-180 into downtown as well as in the county. That height is required to get the coverage needed. This tower site has been approved by the Airport Authority. The FAA has indicated that this is not an air hazard. Additionally, they have received a height permit from Building & Safety. There are two other towers in this area that are 150' tall. Those towers were granted variances by the Board. Qwest is unable to co-locate on either of them because of structural reasons.

Hancock asked how long the other towers have been in the area. Bazzell indicated that they were built prior to the new wireless ordinance.

Carroll asked who owns the other towers. Bazzell stated that one is an Alltel tower. The other is Western Wireless. The City hired an engineer who agreed with Qwest's determination that they couldn't co-locate on either of the existing towers due to structural reasons.

Hancock asked what their second choice would be. Bazzell indicated that they would have to go lower because there are no other properties on which to locate in the area. This location is the only choice that allows the coverage they need while remaining outside the airport turning zones.

Wibbels asked why Europe is so much more advanced than the United States with its wireless technology and ability to camouflage towers. Bazzell indicated that there are several methods used to camouflage and

reduce the impact of towers, for example, facade mounts. It is difficult to camouflage towers in rural areas. The technology is available, however the methods used to disguise towers would not fit with the surroundings. For example, one of the better camouflages used is a cactus, that obviously would not be appropriate here.

Wibbels asked why multiple towers can not be avoided. Bazzell was not sure, every provider is different.

Wibbels asked if future requirements would be increased so that more than 2 carriers could locate on the same tower. Peo explained that towers are required to handle 1 additional provider. As more carriers are added the pole gets bigger and more obtrusive. The other towers in this area had to deal with the same height restriction. Bazzell clarified that towers below 100' must accommodate 1 other carrier. Other towers must be able to accommodate 2 additional carriers. Those are requirements of the wireless ordinance which was adopted in February 2000.

With no one further appearing, the public hearing was closed.

ACTION

May 25, 2001

Members present: Wibbels, Krieser, Hancock, Wanser, and Carroll

Wanser moved approved, seconded by Krieser. Motion for approval carried 5-0.

City Board of Zoning Appeals No. 2310

Requested by Lezlie Patton for a variance of the front yard setback on property located at 401 North 56th Street.

PUBLIC HEARING

May 25, 2001

Members present: Wibbels, Krieser, Hancock, Wanser, and Carroll

Lezlie Patton appeared on behalf of Ron & Lucy Hoffman. They are requesting a reduction of the side yard from 25' to 6' 4". The house currently sits within 10' of the property line. The existing deck is 6'4" from the property line. They would like to add a roof and glass walls to enclose the existing deck creating a non-heated, non-plumbed space.

When the Hoffmans purchased the property, you could park on the street. The streets have since been widened to 4 lanes. They can't enjoy the deck because of the noise. They have a fence and have large trees in the yard, however the noise is still a problem.

This property is on a corner lot which requires a 25' setback on each side touching the street. If this were not a corner lot, they could build within 5' of the property line.

The first owner of the property sold off a portion of the corner of the lot. There is amendment to the Code that says if there is a lot, you can get a special permit to reduce that area to a 5' setback. The problem with this area is the definition of a lot. The definition of a lot is a whole lot, this is part of a lot because of the portion that was sold.

The existing property has 5' eaves, the new addition will not extend beyond those lines.

They have received calls from 4 neighbors asking what is being proposed, no one has indicated any opposition. This is the only location that would work for an enclosed deck that doesn't require an entire remodel of the kitchen.

Wibbels asked what hardship has been created. Patton indicated that the hardship was created when the house was built and because of the definition of a lot. If this were a true whole lot, they wouldn't need a variance to do this.

Hancock asked about the possibility of changing the configuration of the porch so the south side would be parallel to R Street. Patton indicated that the existing deck and footings are sound enough to hold the additional weight.

Hancock asked if this was a result of the widening of R Street. Patton was not sure. According to the current code, the house should not be there. There was a permit taken out for the building of the deck.

Harris stated that he was unable to find the original permit for the dwelling which indicates that the house existed prior to Building & Safety records. There was a permit taken out in 1959 for an addition to the existing dwelling. In 1962, Happy Hollow was platted. In 1982, a permit was taken out for a deck on the south side of house. He is unsure why that was allowed to project as it does, there has been no adjustment to the yards. The regulations that deal with the reduction of setbacks on corner lots apply to lots of record on November 2, 1953.

Carroll asked if the deck would have to pass today's requirements. Harris indicated that it would.

Wanser asked how Patton knew that the existing deck will handle the additional weight. Patton stated that she could tell by looking at it. She will need to have that verified by Building & Safety.

With no one further appearing, the public hearing was closed.

ACTION

May 25, 2001

Members present: Wibbels, Krieser, Hancock, Wanser, and Carroll

Wibbels moved approval, seconded by Krieser.

Wibbels indicated that she was moving approval based on specific questions about hardship; this is a corner lot which has been affected by various decisions over the years and the definition of "lot" is ambiguous. Additionally, they will not be adjusting the site lines with the addition, they are just going up from the existing deck.

Carroll indicated that he would vote against this because there doesn't seem to be much additional cost to the owner by changing the project to stay within the existing regulations.

Motion for approval carried 3-2; Wibbels, Krieser, and Wanser voting 'yes'; Carroll and Hancock voting 'no'.

City Board of Zoning Appeals No. 2305

Requested by Barry King for a variance of the front yard on property located at 1179 Furnas Ave.

ACTION

May 25, 2001

Members present: Wibbels, Krieser, Hancock, Wanser, and Carroll

Wanser would like to support this application because it would be an addition to the neighborhood and there are some special circumstances. Initially the applicant came in with a 4'9" variance, this shows a 2' setback. He would suggest that they allow a variance to the lot line because there is just a parking lot to the west of this and that would be within the setback less than 2'. He suggested approval of no setback on the west lot line of the property. Harris stated that could not be done because this was advertised as a front yard setback not a side yard.

Reynolds suggested that this could be held over another month and re-advertized as a side yard. He pointed out that reducing the side yard to 0' could create other problems. For example, if the applicant wanted to paint the garage, they would have to go onto the church property.

Hancock was not comfortable approving a garage that is larger than the house based on the theory that a proper use would be a single garage. Carroll agreed that this site is not conducive to such a large garage and indicated that he would vote against this.

Wanser moved approval of the original application. Motion for approval died for lack of a second.

Carroll moved denial, seconded by Hancock.

Wanser wanted to communicate to the applicant that the Board wants to help her, but it can't make an application for her.

Wibbels stated that she was abstaining from the vote since she had not heard any of the testimony. She asked if there was anything the applicant could do to meet requirements of the Board to grant a variance.

Carroll indicated that there isn't any hardship. The applicant could build a single stall garage that fits the house and uses the existing driveway.

Motion for denial carried 3-1; Carroll, Hancock, and Krieser voting 'yes'; Wanser voting 'no'; Wibbels abstaining.

There being no further business, the meeting adjourned at 2:20 pm.